

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: DEALER MANAGEMENT SYSTEMS
ANTITRUST LITIGATION

MDL No. 2817
Case No. 18 C 864

This Document Relates to:
Motor Vehicle Software Corp. v. CDK Global, LLC,
et al., Case No. 1:18-cv-00865 (N.D. Ill.)

Hon. Robert M. Dow, Jr.
Magistrate Judge Jeffrey T. Gilbert

**DECLARATION OF MICHAEL N. NEMELKA IN SUPPORT OF
PLAINTIFF MOTOR VEHICLE SOFTWARE CORPORATION'S
MOTION TO COMPEL DEFENDANT COMPUTERIZED VEHICLE REGISTRATION
TO RESPOND TO DISCOVERY**

I, Michael N. Nemelka, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner with the law firm of Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. in Washington, D.C., which represents Plaintiff Motor Vehicle Software Corporation ("MVSC") in the above captioned case. I respectfully submit this declaration in support of Plaintiff MVSC's Motion to Compel Defendant Computerized Vehicle Registration ("CVR") to respond to discovery ("Motion").

2. The following facts are based on my personal knowledge or on information provided to me. If called upon as a witness, I could and would testify competently to them.

3. I have been and continue to be involved in the communications and meet and confers, pursuant to Local Rule 37.2, with Defendant CVR regarding discovery in the above-captioned case.

4. Consistent with their duties under Local Rule 37.2, the parties have met and conferred in an effort to resolve this dispute over the discovery for this MDL. The dispute that remains is described in MVSC's brief submitted in support of the Motion.

5. The participant on the relevant telephonic meet and confer was primarily Mike Nemelka on behalf of MVSC. On behalf of CVR, the participant on the relevant telephonic meet and confer was Matthew Provance.

6. On the telephonic meet and confer, the specific issues raised in the Motion were discussed at length. Likewise, the correspondence exchanged by the parties has addressed the specific issues raised in the Motion.

7. Listed below are relevant materials and/or information cited in Plaintiffs' brief submitted in support of the Motion.

8. Attached as **Exhibit A** is a true and correct copy of the Memorandum Opinion, *Motor Vehicle Software Corp. v. CDK Global, Inc.* (C.D. Cal. Oct. 2, 2017), Dkt. 73.

9. Attached as **Exhibit B** is a true and correct copy of Individual Plaintiffs' Requests for Production to CVR (August 30, 2018).

10. Attached as **Exhibit C** is a true and correct copy of the Letter from M. Nemelka to B. Miller (Sept. 10, 2018).

11. Attached as **Exhibit D** is a true and correct copy of the Email from M. Nemelka to M. Provance (Sept. 18, 2018).

12. Attached as **Exhibit E** is a true and correct copy of the Individual Plaintiffs' Proposed CVR Search Terms.

13. Attached as **Exhibit F** is a true and correct copy of the Second Amended Complaint, *Motor Vehicle Software Corp. v. CDK Global, Inc.* (C.D. Cal. Nov. 2, 2017), Dkt. 76.

14. During a meet-and-confer on September 20, 2018, MVSC offered to negotiate over CVR custodians, search terms, the scope of the RFPs, and an extended deadline for CVR's discovery responses.

15. In response, however, CVR informed MVSC that it would not negotiate over CVR custodians, search terms, the scope of the RFPs, or an extended deadline for CVR's discovery responses.

16. Instead, CVR said it would likely move to stay its response to the discovery requests until after resolution of its pending motion to dismiss.

17. By September 24, 2018, CVR filed a motion to stay of discovery.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: September 24, 2018

/s/ Michael N. Nemelka

Michael N. Nemelka